

Message Text

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ACTION IO-14

INFO OCT-01 IOE-00 ISO-00 CU-04 DHA-05 HEW-04 AID-05
SSO-00 NSCE-00 INRE-00 USIE-00 SS-15 SP-02 L-03
H-01 CIAE-00 INR-07 NSAE-00 PA-01 PRS-01 AF-10
ARA-10 EA-10 EUR-12 NEA-10 OIC-02 /117 W
-----093643 291928Z /41

O R 291837Z SEP 77
FM AMEMBASSY PARIS
TO SECSTATE WASHDC IMMEDIATE 9536
INFO USMISSION USUN
USMISSION GENEVA

C O N F I D E N T I A L SECTION 01 OF 04 PARIS 28603

NESCO

E.O. 11652: GDS
TAGS: UNESCO, PORG, AORG, OCON, SHUM
SUBJECT: UNESCO: 103 EXBD ITEM 5.5.2 (PROCEDURE FOR
HANDLING HUMAN RIGHTS COMPLAINTS

REF: (A) PARIS 27862, (B) STATE 231798 (NIACT)

1. WORKING GROUP (WG) CHAIRED BY AMB. CARNEIRO (MARTIN NOT YET RETURNED FROM MISSION TO BUCHAREST), MET FOR FOUR HOURS SEPT. 29, TO CONSIDER TEXT OF DR (REF A).
2. AT THE OUTSET OF MEETING, SOVIET EXPERT (KARTASHKIEN) MADE REPEATED ATTEMPTS TO SIDETRACK DISCUSSION RAISING QUESTIONS OF PROPRIETY OF UNESCO TO WORK OUT ITS PROCEDURE WHEN OTHER UN BODIES COMPETENT IN HUMAN RIGHTS AREA HAVE NOT YET CONCLUDED THEIR WORK, ETC.
3. AFTER SEVERAL HEATED EXCHANGES BETWEEN SOVIETS AND THE CHAIRMAN WHO CALLED ATTENTION TO SPECIFIC MANDATE
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BY EXBD TO WG TO PREPARE RECOMMENDATIONS FOR SUBJECT PROCEDURE, CHAIR -- SUPPORTED BY MANY OTHER WG MEMBERS-- RULED THAT DISCUSSION SHOULD FOCUS ONLY ON THE TEXT OF DR AND THAT ANY OTHER INTERVENTIONS WILL BE RULED OUT OF ORDER.

4. THIS FIRM STAND BY CHAIRMAN LED TO MORE ORDERLY

DISCUSSION IN COURSE OF WHICH FOLLOWING AMENDMENTS WERE
SUBMITTED (PLEASE REFER TO ORDER INDICATED IN REF A):

PARA 4 (REFTEL A): BEGIN QUOTE: FOR "... FROM
THE CHARTER OF THE UNITED NATIONS AND THE UNIVERSAL
DECLARATION OF HUMAN RIGHTS", READ "...FROM THE CHARTER
OF THE UNITED NATIONS, THE UNIVERSAL DECLARATION OF
HUMAN RIGHTS, THE INTERNATIONAL COVENANTS ON HUMAN
RIGHTS AND OTHER PERTINENT INTERNATIONAL HUMAN RIGHTS
INSTRUMENTS." (KARTASHKIN)

PARA 6 FOR "...IN A SPIRIT OF INTERNATIONAL COOPERA-
TION MUTUAL UNDERSTANDING AND CONCILIATION." READ
"...IN A SPIRIT OF INTERNATIONAL COOPERATION, MUTUAL
UNDERSTANDING AND RESPECT FOR THE SOVEREIGN RIGHTS OF
STATES AND NON-INTERFERENCE IN THEIR DOMESTIC AFFAIRS"
(KARTASHKIN)

DELETE PARA 6 AND REPLACE WITH THE FOLLOWING: "CON-
SIDERING THAT CASES AND QUESTIONS WHICH MAY BE SUB-
MITTED TO UNESCO CONCERNING THE EXERCISE OF HUMAN RIGHTS
MAY BE REGARDED AS OBSTACLES STANDING IN THE WAY OF CO-
OPERATION AND UNDERSTANDING BETWEEN NATIONS, WHICH RE-
PRESENT THE PURPOSES ASSIGNED TO THE ORGANIZATION UNDER
ITS CONSTITUTION

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AND THAT UNESCO SHOULD EXAMINE THEM WITH THE GENERAL
PURPOSE OF ASSISTING STATES, BY HELPING THEM TO OVER-
COME SUCH OBSTACLES IN UNESCO'S SPHERES OF COMPETENCE
BY CONSTANT DIALOGUE AND THE USE OF CONCILIATION AND
GOOD OFFICES, SO AS TO PREVENT HUMAN RIGHTS -- THE
RESPECT FOR WHICH IS ONE OF THE PREREQUISITES FOR
PEACE AMONG THE PEOPLES -- FROM GIVING RISE TO
POLITICAL CLASHES BETWEEN MEMBER STATES." (SAPIE
INDONESIA).

PARA 7 (B) FOR "USING HIS GOOD OFFICES" READ
- "USING HIS CONSULTATION" (KARTASHKIN)
- "OFFERING HIS GOOD OFFICES" (PASZKOWSKI)

PARA 8. DELETE ENTIRELY (PASZKOWSKI)
FOR "HUMANITARIAN INTERCESSION" READ:
- "HUMANITARIAN CONSULTATION (KARTASHKIN)
' INTERCESSION ON HUMANITARIAN GROUNDS"
(GOPAL)

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INR-07 NSAE-00 PA-01 PRS-01 OIC-02 /117 W
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TO SECSTATE WASHDC IMMEDIATE 9537
INFO USMISSION USUN
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C O N F I D E N T I A L SECTION 02 OF 04 PARIS 28603

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FOR "CARRIED OUT IN CONDITION OF MUTUAL TRUST AND DIS-
CRETION" READ "CARRIED OUT IN CONDITIONS OF MUTUAL TRUST
AND NON-INTERVENTION IN DOMESTIC AFFAIRS" (KARTASHKIN)

ADD NEW 9)A) AS FOLLOWS: "CONSIDERING THAT IN THE
EXERCISE OF ITS COMPETENCE IN THE FIELD OF HUMAN RIGHTS
UNESCO IS CALLED UPON TO EXAMIN:

- CASES WHICH ARE INDIVIDUAL AND SPECIFIC,
- SITUATIONS, WHICH ARE A CONSISTENT PATTERN OF INDI-
VIDUAL CASES REVEALING A SYSTEMATIC VIOLATION OF HUMAN
RIGHTS,
- QUESTIONS, WHICH RESULT FROM A POLICY OF CONTRARY TO
HUMAN RIGHTS APPLIED DE JURA OR DEFACTO BY A STATE"
(GOPAL) INDIA.

PARA 9 FOR "QUESTIONS OF MASSIVE, SYSTEMATIC OR
FLAGRANT VIOLATIONS OF HUMAN RIGHTS" READ:
- "QUESTIONS OF MASSIVE, SYSTEMATIC AND FLAGRANT VIO-
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LATIONS OF HUMAN RIGHTS" (GOPAL)

- "QUESTIONS OF MASSIVE, SYSTEMATIC OR FLAGRANT VIOLATIONS OF HUMAN RIGHTS SUCH AS THOSE OCCURRING AS A RESULT OF THE UNLEASHING OF AN AGGRESSIVE WAR AGAINST ANY OTHER STATE, THE OCCUPATION OF FOREIGN TERRITORY, POLICIES ON PRACTICES OF RACISM, RACIAL DISCRIMINATION, APARTHEID, COLONIALISM, SOCIAL AND NATIONAL OPPRESSION AND OTHER FORMS OF DISCRIMINATION." (KARTASHKIN)

ADD NEW PARA 9 (B) AS FOLLOWS: "CONSIDERING THAT SITUATIONS CONCERNING HUMAN RIGHTS BROUGHT TO THE ATTENTION OF UNESCO SHOULD RECEIVE A PRELIMINARY EXAMINATION BY THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS IN EDUCATION IN A MANNER CORRESPONDING TO THE SITUATION AT ISSUE, AND THAT, IF NECESSARY, THE COMMITTEE SHOULD SUBMIT THE MATTER TO THE EXECUTIVE BOARD FOR ITS CONSIDERATION AS A QUESTION RELATING TO HUMAN RIGHTS". (GOPAL)

PARA 11 FOR "COMMUNICATIONS CONCERNING CASES OF HUMAN RIGHTS..." READ "COMMUNICATIONS CONCERNING SPECIFIC CASES OF HUMAN RIGHTS..." (GARBO) NORWAY

PARA 11 (A) FOR "WITH A VIEW TO DETERMINING THEIR ADMISSIBILITY..." READ "WITH A VIEW TO DETERMINING WHETHER SUCH COMMUNICATIONS SHOULD BE TRANSMITTED TO THE COMMITTEE..." (GARBO)

FOR "CONSISTING OF THE CHAIRMAN OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS OF THE EXBD AND TWO OTHER MEMBERS APPOINTED BY THE COMMITTEE, FOR THE PURPOSE OF PRELIMINARY CONSIDERATION" READ "CONSISTING
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OF THE CHAIRMAN OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS OF THE EXECUTIVE BOARD AND FIVE OTHER MEMBERS, TAKING INTO ACCOUNT AN EQUITABLE GEOGRAPHICAL DISTRIBUTION, FOR THE PURPOSE OF PRELIMINARY CONSIDERATION AND FOR THE PURPOSE OF ARRIVING AT A DECISION BY CONSENSUS. THE WORKING GROUP SHALL HOLD PRIVATE MEETINGS AND WILL BE CONVENED ONE WEEK BEFORE THE OPENING OF THE SESSION OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS OF THE EXECUTIVE BOARD". (KARTASHKIN)

ADD A NEW SENTENCE, BASED ON THE PRESENT 11 (D), AS FOLLOWS: "BEFORE SUBMITTING COMMUNICATIONS TO THE WORKING GROUP, THE DIRECTOR GENERAL SHALL ASCERTAIN THAT THE AUTHOR OF THE COMMUNICATION HAS NO OBJECTION

TO HIS COMMUNICATION, AFTER HAVING BEEN COMMUNICATED TO
THE GOVERNMENT CONCERNED, BEING BROUGHT TO THE NOTICE
OF THE COMMITTEE AND TO HIS NAME BEING
DIVULGED". (FOBES)

ADD A NEW SENTENCE AS FOLLOWS: "ANY MEMBER OF THE
WORKING GROUP WHO IS A NATIONAL OF THE COUNTRY CON-
CERNED BY A COMMUNICATION SHALL NOT PARTICIPATE IN THE
EXAMINATION OF THAT COMMUNICATION". (VAN USSEL)

PARA 11 (B) FOR "COMMUNICATIONS WHICH MEET THE FOLLOW-
ING CONDITIONS" READ "COMMUNICATIONS WHICH CAME FROM
INDIVIDUAL PERSONS OR GROUPS AFFIRMING THAT THEY ARE THE
VICTIMS OF THE VIOLATION OF HUMAN RIGHTS AND WHICH MEET
THE FOLLOWING CONSITIONS" (KARTASHKIN)

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INRE-00 USIE-00 SS-15 SP-02 L-03 H-01 CIAE-00
INR-07 NSAE-00 PA-01 PRS-01 OIC-02 /117 W
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PARA 11 (B) (II) FOR "PROCLAIMED IN THE UNIVERSAL
DECLARATION OF HUMAN RIGHTS" READ "PROCLAIMED
IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS OR THE
INTERNATIONAL COVENANTS ON HUMAN RIGHTS" (KARTASHKIN)

(B) (III) FOR "THE UNIVERSAL DECLARATION OF HUMAN
RIGHTS AND THE OTHER INSTRUMENTS ..." READ "THE
UNIVERSAL DECLARATION OF HUMAN RIGHTS, THE INTERNATIONAL

COVENANTS ON HUMAN RIGHTS AND THE OTHER INSTRUMENTS..."
(KARTASHKIN)

PARA 11 (B) (IV) FOR "CONTAIN EVIDENCE OF A PRIMA
FACIE CASE" READ "CONTAIN RELIABLE EVIDENCE OF A PRIMA
FACIE CASE". (KARTASHKIN)

(B) (V) FOR "MUST NOT BE BASED EXCLUSIVELY ON INFORMA-
TION..." READ "MUST NOT BE BASED ON INFORMATION..."
(KARTASHKIN)

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(B) (VI) REPLACE BY THE FOLLOWING "COMMUNICATIONS MUST
NOT CONTAIN LANGUAGE WHICH IS ESSENTIALLY ABUSIVE AND
IN PARTICULAR MUST NOT CONTAIN INSULTING REFERENCES
TO THE STATE AGAINST WHICH THE COMPLAINT IS DIRECTED.
SUCH COMMUNICATIONS MAY BE CONSIDERED IF THEY MEET THE
OTHER CRITERIA FOR ADMISSIBILITY AFTER DELETION
OF THE ABUSIVE LANGUAGE." (WARVARIV)

NEW 11 (B) (VIII) "THE COMMUNICATION MUST NOT BE
PROMPTED BY POLITICAL MOTIVES OR BE CONTRARY TO THE PRO-
VISIONS OF THE CONSTITUTION OF UNESCO" (KARTASHKIN).

NEW 11 (B) (IX) "COMMUNICATIONS ARE INADMISSIBLE IF
DOMESTIC REMEDIES HAVE NOT BEEN EXHAUSTED IF THEY
CONTAIN ANY SLANDER OR IF THEY JEOPARDIZE THE ACTIVI-
TIES OR FUNCTIONS OF UNESCO. (KARTASHKIN)

11 (C) FOR "ALL RELEVANT INFORMATION" READ "ANY RELE-
VANT INFORMATION" (KARTASHKIN)

PARA 11 (D) FOR "BEFORE ADMISSIBLE COMMUNICATIONS ARE
CONSIDERED..." READ "BEFORE COMMUNICATIONS ARE CON-
SIDERED" (GARBO)

PARA 11 (E) DELETE "THOSE PARTS WHEREOF WHICH MEET
THE CONDITIONS LAID DOWN ABOVE,..." (KARTASHKIN)

PARA 11 (F) FOR "SEEKING ANY ADDITIONAL INFORMATION..."
READ "SEEKING ADDITIONAL INFORMATION..." (KARTASHKIN)
ADD IN FINE: "TAKING INTO ACCOUNT THE NEED TO PROCEED
WITHOUT UNDUE DELAY" (WARVARIV).

PARA 11 (G) FOR "SUCH REPORTSBOARD." READ
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"SUCH REPORTS SHALL BE CONFIDENTIAL DOCUMENTS. THEY
SHALL CONTAIN GENERAL INFORMATION AND THEY MAY
CONTAIN RECOMMENDATIONS OF A GENERAL NATURE"
(KARTASHKIN).
IN SECOND SENTENCE DELETE "OR BY THE BOARD". (VAN USSEL

11 (H) FOR "THE BOARD MAY HOWEVER DECIDE..." READ
"WHENEVER THE BOARD CONSIDERS IT ADVISABLE, IT SHALL
MAKE PUBLIC THE REPORT OF THE COMMITTEE AND ADOPT IN A
PUBLIC SESSION ANY DECISION IN CONNEXION THEREWITH
WHICH IT MAY DEEM APPROPRIATE" (WARVARIV)
DELETE SECOND SENTENCE (KARTASHKING)

NEW PARA 12 A: DECIDES THAT:

(A) COMMUNICATIONS CONSIDERED BY THE COMMITTEE WHICH
REVEAL A PATTERN OF GROSS, SYSTEMATIC AND FLAGRANT
VIOLATIONS OF HUMAN RIGHTS, SUCH AS THOSE RESULTING
FROM THE UNLEASHING OF AN AGGRESSIVE WAR, THE OCCUPA-
TION OF FOREIGN TERRITORY, POLICIES OR PRACTICES OF
RACISM, RACIAL DISCRIMINATION, COLONIALISM, SOCIAL OR
NATIONAL OPPRESSION OR OTHER FORMS OF DISCRIMINATION
SHALL BE SUBMITTED TO THE EXECUTIVE BOARD FOR CONSI-
DERATION IN PUBLIC MEETINGS;

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IOE-00 CU-04 DHA-05 HEW-04 AID-05 SSO-00 NSCE-00
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INR-07 NSAE-00 PA-01 PRS-01 OIC-02 /117 W
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O R 291837Z SEP 77
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() THE EXECUTIVE BOARD SHALL ADOPT ALL MEASURES WITHIN THE COMPETENCE OF UNESCO AIMED AT CONTRIBUTING TO THE ELIMINATION OF SUCH VIOLATIONS AND AS A RULE REFER SUCH MATTERS TO THE GENERAL CONFERENCE.

(C) THE DIRECTOR GENERAL SHALL ADOPT ALL NECESSARY MEASURES WITHIN HIS COMPETENCE AIMED AT CONTRIBUTING THE ELIMINATION OF SUCH VIOLATIONS AND SHALL REPORT ON THE MEASURES TAKEN AT EACH SESSION OF THE EXECUTIVE BOARD AND OF THE GENERAL CONFERENCE. (KARTASHKIN)

5. COMMENT: SOVIET AMENDMENTS TO DRAFT TEXT INDICATE DEPTH OF THEIR CONCERN THAT UNESCO NOT BE ALLOWED TO ADOPT EFFECTIVE HUMAN RIGHTS PROCEDURES. SOVIET TACTIC IS AIMED AT CONFOUNDING ADOPTION OF ANY WORKING GROUP REPORT ON PROCEDURAL MATTERS OTHER THAN STATEMENT THAT NO CONSENSUS IS POSSIBLE, AND RECOMMENDATIONS FOR FURTHER STUDY.

6. A DEADLOCK MIGHT BE BROKEN BY INVOKING 102 EXBD RESOLUTION ON 5.6.2 WHICH DEFINED TERMS OF REFERENCE
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OF WORKING GROUP AS FOLLOWS (PARA 7,B): "TO IDENTIFY POINTS OF AGREEMENT AND DIVERGENCE AND WORKING TO THE EXTENT POSSIBLE, (REPEAT TO THE EXTENT POSSIBLE) ON A BASIS OF CONSENSUS, TRY TO REDUCE DIVERGENCES." ACCORDING TO THIS, WE COULD PROPOSE THE GROUP SHOULD ISSUE A MAJORITY REPORT, SINCE NO CONSENSUS WAS POSSIBLE, AND APPEND DISSENTING VIEWS TO THE MAJORITY DECISION. FOLLOWING THIS PROCEDURE, THE ISSUES BOGGING DOWN DISCUSSION OF HUMAN RIGHTS PROCEDURES COULD AT LEAST BE AIDED BEFORE THE FULL EXBD.

7. EVEN THOUGH MOST OF WORKING GROUP MEMBERS WOULD PREFER TO SUBMIT A SUBSTANTIVE REPORT TO THE EXBD, PROCEDURE SUGGESTED IN PARA 4 ABOVE WOULD REQUIRE APPLICATION OF CONSIDERABLE PRESSURE WITH NO GUARANTEE OF SUCCESS. AFRICAN, LATIN, AND ASIAN MEMBERS WOULD UNDOUBTEDLY FEEL VERY UNCOMFORTABLE WITH ADOPTION OF THIS PROCEDURAL SOLUTION, EVEN THOUGH WE MIGHT TRY TO SWEETEN THE PILL BY OFFERING TO HAVE REPORT PRESENTED AT A PRIVATE SESSION OF THE BOARD.

8. WITH ALL THESE CAVEATS, PERMDEL WOULD LIKE DEPT.'S GUIDANCE ON HOW HARD IT SHOULD PRESS TO ATTEMPT TO BRING A SUBSTANTIVE WORKING GROUP REPORT BEFORE THE EXECUTIVE BOARD.

9. WG WILL RECONVENE SATURDAY A.M., OCT. 1. DEPT.
GUIDANCE AND SPECIFIC TALKING POINTS URGENTLY
REQUESTED BY 3:00 P.M. (PARIS TIME) FRIDAY, SEPT. 30.
HARTMAN

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Message Attributes

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TAGS: PORG, AORG, OCON, SHUM, UNESCO
To: STATE
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